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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,109	02/17/2006	Joseph Talpe	Q93288	2775
23373 7590 01/29/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER MERLINO, ALYSON-MARIE	
			ART UNIT	PAPER NUMBER
			3676	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/595,109	Applicant(s) TALPE, JOSEPH	
	Examiner Alyson M. Merlino	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>17 February 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 15. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
- a. Titles detailing the specific sections of the specification should be included, such as "Field of Invention" before paragraph 1 on page 1, "Background of the Invention" before paragraph 3 on page 1, "Summary of Invention" before the second full paragraph on page 2, "Brief Description of Drawings" before the last paragraph on page 4, and "Description of Preferred Embodiments" before the second full paragraph on page 5.

Appropriate correction is required.

Claim Objections

2. **Claims 1-9 are objected** to because of the following informalities:

- a. Within all the claims, the phrase "characterized in that" should be replaced with "wherein" to conform to standard U.S. practice.
- b. In claim 3, line 3 of the claim, the phrase "of said" should be placed between the words "several" and "push."
- c. In claim 4, line 4 of the claim, the word "the" should be removed before the phrase "said connecting piece." Also, in line 3 of the claim, the phrase "of said" should be placed between the words "several" and "push."
- d. In claim 7, line 3 of the claim, the word "the" should be removed before the phrases "said bulges" and "said recesses."
- e. Within all the claims, legal jargon should be used throughout, such as the word "said" instead of "the," in certain instances. An example of this and the aforementioned corrections is shown in the correction of claim 4, "Element for doors, gates or windows according to claim 3, wherein the push buttons have been provided with an inclined plane which, when one or several of said push buttons are pushed, will engage one or several inclined planes provided on said connecting piece."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-3, 6, and 8 are rejected** under 35 U.S.C. 102(b) as being anticipated by Miltner (US-2783074).

5. **In regards to claim 1**, Miltner discloses an element (Figure 1) for opening and closing doors, gates, and windows having a first part 5, 6, 7, 8 designed to operate a closing mechanism by rotation (Col. 1, lines 46-52), and a second rotatable part (handle 11 and all its components, except for components that make up the first part, Figure 2) designed to transfer a rotary motion to the first part (Col. 2, lines 22-30). The element also has one or several push buttons 18, in which at least one button is pushed in order to transfer the rotary motion of the second part to the first part (Col. 2, lines 22-30).

6. **In regards to claim 2**, Miltner discloses that when none of the push buttons is pushed, the second part is freely rotatable with respect to the first part (Col. 2, lines 22-25).

7. **In regards to claims 3 and 6**, Miltner discloses that the element has a connecting piece 13 with bulges 15 that engage recesses 9 within the first part when one or several of the push buttons is pushed (Col. 2, lines 22-30). Miltner further discloses that a spring 17 is provided between the connecting piece and the first part,

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so that the push button is movable against the force of the spring (Col. 1, lines 65-69 and Col. 2, lines 22-30).

8. **In regards to claim 8**, Miltner discloses the claimed invention, but does not specifically state that the element is made of a synthetic material or of metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to specify that the element be made of a synthetic material or of a metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Furthermore, it is well known in the art to construct a device for opening and closing doors out of metal or a synthetic material in order to ensure the durability of the device, as well as allow the device to be formed in order to contain a plurality of components for the actuation of a latch.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 7 and 9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Miltner (US-2783074).

11. **In regards to claim 7**, although Miltner does not specifically state that the push button needs to be pushed with a 25 Newton force in order to transfer the rotation of the second part to the first part. It would have been obvious to one having ordinary skill in

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the art at the time the invention was made to specify that the stiffness of the spring be enough to require a 25 Newton force in order to overcome its biasing force, force pushing the push button into a disengaged position because it is well known in the art of springs to use a spring of a specific stiffness for certain situations. Specifically, if the device is meant to have a hard actuation or pushing of a button, in this case to keep children from actuating the closing mechanism, one of ordinary skill in the art could specify that the spring be relatively stiff so that an adult with more strength than a child would be able to push the button, thus actuating the closing mechanism.

12. **In regards to claim 9**, Miltner discloses the claimed invention, but does not show that the handle 11 can be a knob instead of a lever-shaped handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to specify that the handle of the device disclosed by Miltner be a knob, since the examiner takes the position that a knob and a lever are equivalent for their use in the handle art and the selection of any of these known equivalents to rotate and actuate a latch or closing mechanism would be within the level of ordinary skill in the art.

Furthermore, the modification of the handle of the element disclosed by Miltner from a lever to a knob would not affect the device's ability to actuate a closing mechanism or latch, since the push button could be placed in the center of the knob for actuation of the closing mechanism.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. **Claims 1-5, 8, and 9 are rejected** under 35 U.S.C. 102(b) as being anticipated by Speight et al. (US-3206238).

15. **In regards to claim 1**, Speight et al. discloses an element (Figure 1) for opening and closing doors, gates, and windows having a first part (all components to the left of buttons 44 except portion 40, Figure 1) designed to operate a closing mechanism by rotation (Col. 2, lines 55-63), and a second rotatable part (portion 40 and all components to the right of buttons 44, Figure 1) designed to transfer a rotary motion to the first part (Col. 2, lines 70-72 and Col. 3, lines 1 and 2). The element also has one or several push buttons 44, in which at least one button is pushed in order to transfer the rotary motion of the second part to the first part (Col. 3, lines 12-21 and 64-66).

16. **In regards to claim 2**, Speight et al. discloses that when none of the push buttons is pushed, the second part is freely rotatable with respect to the first part (Col. 2, lines 55-63).

17. **In regards to claim 3**, Speight et al. discloses that the element has a connecting piece 42 with bulges 66 that engage recesses (created by cogs 26, Figures 2, 6, and 7) within the first part when the push button is pushed (movement between Figures 2, 6, and 7).

18. **In regards to claim 4**, Speight et al. discloses that the push buttons are provided with an inclined plane (inclined surface of bulges 66, Figures 6 and 7) which engages one or several inclined planes provided on the connecting piece (inclined planes

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created by cogs 26 and spindle 50, Figure 6) when one or several of the push buttons are pushed (movement between Figures 2, 6, and 7).

19. **In regards to claim 5**, Speight et al. discloses that the element has at least two push buttons 44 that transfer the rotary motion of the second part to the first part when at least one push button is pushed (Col. 3 lines 12-21 and 64-66).

20. **In regards to claim 8**, Speight et al. discloses the claimed invention, but does not specifically state that the element is made of a synthetic material or of metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to specify that the element be made of a synthetic material or of a metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Furthermore, it is well known in the art to construct a device for opening and closing doors out of metal or a synthetic material in order to ensure the durability of the device, as well as allow the device to be formed in order to contain a plurality of components for the actuation of a latch.

21. **In regards to claim 9**, Speight et al. discloses that the element is a rotary knob (Col. 3, lines 3-8 and Figure 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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January 23, 2007



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